

REMARKS

Claims 1-41 remain in the present application. By this Amendment, claims 1 and 34 are amended. No new matter is added.

The Examiner has imposed a Restriction Requirement, and requested that Applicants elect one of two identified groups of claims for prosecution in connection with the present application. The groups of claims are as follows:

Group I Claims 1-19 and 34-41, drawn to a humidifier with a case; and

Group II Claims 20-33, drawn to an absorptive element.

Applicants provisionally elect, with **traverse**, Group II, including claims 20-33. Applicants further note that claims 1 and 34 have been amended to depend directly and/or indirectly from independent claim 20. Since claims 1-19 and 34-41 now depend directly and/or indirectly from claim 20, it is submitted that at least claims 1-41 should be examined together.

Nonetheless, Applicants specifically reserve the right to file divisional application(s) directed to non-elected claims 1-19 and 34-41.

In regard to the traversal of the restriction requirement, it is respectfully submitted that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one group would encompass a search for the subject matter of the remaining claims. Thus, Applicants respectfully submit that the search and examination of the entire application could be performed without serious burden.

M.P.E.P. § 803 states:

[I]f the search and examination of an entire application can be made without serious burden, the Examiner **must** examine on the merits, even though it includes claims too distinct or independent invention. (*emphasis added*)

Thus, it is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants' and duplicated examination by the Patent Office.

Further, there are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

there must be a serious burden on the Examiner if a restriction is not required. See M.P.E.P. § 803.092, 806.04 A through J, 808.01(a) and 808.02.

Accordingly, Applicants respectfully submit that the Examiner would not be unduly burdened if forced to examine Groups I and II together.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding Restriction Requirement and favorable allowance of all claims in the instant application are earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,


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